Safeway Stores, Incorporated *and* Retail Clerks Union Local 1583, affiliated with United Food and Commercial Workers, AFL-CIO. Case 26-CA-7988

March 31, 1981

DECISION AND ORDER

On October 15, 1980, Administrative Law Judge Thomas D. Johnston issued the attached Decision in this proceeding. Thereafter, the General Counsel and the Charging Party filed exceptions and supporting briefs, and the Respondent filed a reply brief to the exceptions filed by the General Counsel and the Charging Party.[1]

The Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings, findings,[2] and conclusions of the Administrative Law Judge and to adopt his recommended Order.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge and hereby orders that the amended complaint be, and it hereby is, dismissed in its entirety.

[1] The Respondent filed a motion to eradicate an error in the Decision of the Administrative Law Judge, requesting that all references to "Safeway Stores, Inc.," be change to "Safeway Stores, Incorporated," which is Respondent's correct legal name. We grant the motion.

[2] The Charging Party has excepted to certain credibility findings made by the Administrative Law Judge. It is the Board's established policy not to overrule an administrative law judge's resolutions with respect to credibility unless the clear preponderance of all of the relevant evidence convinces us that the resolutions are incorrect. *Standard Dry Wall Products, Inc.*, 91 NLRB 544 (1950), enfd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing his findings.

The Administrative Law Judge found that the Union's requests for information were made in general terms which were insufficient to apprise the Respondent of the information it sought. The General Counsel and the Charging Party except to this finding contending that in the circumstances of the instant case the Union's requests were sufficiently specific. We find it unnecessary to pass on this exception inasmuch as we agree with the Administrative Law Judge's conclusion that the evidence is insufficient to establish that the Respondent unlawfully failed or refused to furnish information to the Union pursuant to its request.

In sec. III, B, at par. 17 and fn. 9, the Administrative Law Judge inadvertently refers to Attorney Staley as "Attorney Casey."

DECISION

STATEMENT OF THE CASE

THOMAS D. JOHNSTON: Administrative Law Judge: This case was heard at Little Rock, Arkansas, on April 7, 1980, pursuant to a charge filed on August 15, 1979,[1] by the Retail Clerks Union, Local 1583, affiliated with United Food and Commercial Workers, AFL-CIO (herein referred to as the Union), and a complaint issued on November 20.

The complaint, which was amended on November 21, alleges that Safeway Stores, Inc. (herein referred to as Respondent), violated Section 8(a)(1) and (5) of the National Labor Relations Act, as amended, herein referred to as the Act, by refusing to bargain collectively with the Union by failing and refusing to furnish the Union with information[2] it requested that Respondent had in its possession which would show employee Reggie Williams had engaged in "sliding groceries"[3] to a customer and which information was relevant and necessary to the Union in making an intelligent determination about whether the Union should proceed to arbitration on the issue of whether Respondent violated the terms of its collective-bargaining agreement with the Union by suspending and discharging Williams.

It further alleges that the Union first received this information during the arbitration hearing and that the prompt and full disclosure of such information would have led the Union to drop its grievance over Williams' suspension and discharge prior to arbitration and, because of Respondent's failure to timely furnish the Union with such information, seeks as a remedy the Union's cost of $607.45 for arbitrator's fees and $350 for attorney's fees incurred in proceeding to the arbitration hearing.

Respondent in its answer dated December 7, which was amended at the hearing, denies having violated the Act as alleged.

The issues involved are whether Respondent violated Section 8(a)(5) and (1) of the Act by refusing to bargain with the Union and by failing and refusing to furnish it with information it had requested and was entitled to; and, if so, whether an appropriate remedy would require Respondent to reimburse the Union for arbitrator and attorney fees incurred in the arbitration proceeding.

Upon the entire record in this case and from my observations of the witnesses and after due consideration of the briefs filed by the General Counsel and Respondent,[4] I hereby make the following:[5]

[1] All dates referred to are in 1979 unless otherwise stated.

[2] The information included the following: The name and address of the customer to whom Reggie Williams was alleged to have sold groceries at an unauthorized discount; evidence that a child accompanying the customer had referred to Williams by name at the time of the incident which formed the basis of Williams' discharge; evidence that Williams had, in the course of an investigation by Respondent, given to Respondent three separate versions of the events occurring on March 7; evidence that the customer to whom Williams was alleged to have given unauthorized discounts made contradictory statements to Respondent concerning the events occurring on March 7; evidence of an anonymous "tip" that Williams and the customer to whom Williams was alleged to have given unauthorized discounts were engaged to be married; the content of a private investigator's report, including the name of a potential witness; and evidence that goods received by the customer did not appear on, or correspond with, cash register tapes.

[3] The term "sliding groceries" as alleged here refers to selling groceries to a customer at an unauthorized discount.

[4] The Charging Party did not submit a brief.

[5] Unless otherwise indicated the findings are based on the pleadings, admissions, stipulations, and undisputed evidence contained in the record which I credit.

FINDINGS OF FACT

I. THE BUSINESS OF RESPONDENT

Respondent, a corporation with an office and place of business located at 8109 I-30 in Little Rock, Arkansas, has been engaged in the business of the retail sale of grocery products. During the course of its operations at the facility its gross revenues from the sale of grocery products annually has been in excess of $500,000 and it also purchased and received at its facility products, goods, and materials valued in excess of $50,000 directly from points located outside the State of Arkansas.

Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

II. THE LABOR ORGANIZATION INVOLVED

Retail Clerks Union, Local 1583, affiliated with United Food and Commercial Workers, AFL-CIO, is a labor organization within the meaning of Section 2(5) of the Act.

III. THE UNFAIR LABOR PRACTICES

A. *Background*

Respondent operated a facility[6] located at 8109 I-30 in Little Rock, Arkansas, where it was engaged in the retail sale of grocery products. Included among its supervisory personnel were District Manager William Haupt, Security Manager Jerry Grissen, and Employee Relations Manager Gerald Mauldin.[7]

Its employees were represented by the Union with which it had a collective-bargaining agreement covering them. This agreement contained grievance and arbitration provisions for purposes of settling any differences, disputes, or complaints arising over the interpretation or application of its contents.

On the evening of March 7, Reggie Williams, who was employed by Respondent at its facility involved here, was suspended from his job for "sliding groceries" to a customer.

Security Manager Grissen testified he conducted an investigation of the incident that same evening. The woman customer involved (herein referred to as the customer), gave him her name and address and informed him she had purchased $23.11 worth of groceries for which she had paid $25 and received her change. Grissen denied inquiring of her about her relationship with Williams.

Williams told him the customer, who he denied knowing, came through the line with some groceries already in a sack that had been purchased previously, whereupon he rang up some loose cans, which she had not paid for, costing $3.20.

Perry Black, who was in charge of the facility that evening, informed him as he passed in front of the check stand where Williams was working he observed some "Pampers" diapers costing about $6 in a basket, but with a total of only $3.20 showing on the cash register. Black then pulled the detailed tapes from the cash registers on each side of Williams as well as from Williams' cash register but could not find the diapers listed on those tapes. Black instructed Williams to re-ring the order which then totaled $23.11 but was reduced to $21.65 after two cans of "Enfamil," which the customer denied were hers, were deducted. Black then compared the customer's receipt tape, which was in the bottom of the basket, with the items in the basket. This comparison revealed that, while a few items were rung up correctly, several items did not match anything and several other items were not rung up at all. Black further informed Grissen a child with the customer had said to her, "Look, Mommie, there's Reggie."

Grissen reported the results of his investigation to District Manager Haupt, who came to the facility that evening and also talked to Black.

According to District Manager Haupt, the next day, after reviewing the results of the investigation consisting of both written and oral reports by security, a decision was made by Division Manager Ron Phillips, Retail Operations Manager George Umbrey and himself to discharge Williams for violating the company policy on check stand procedures by sliding groceries to a customer. Haupt denied at the time they knew Williams knew the customer, but, from the child's remark to the customer, the supposition could be made they evidently knew Williams. Haupt also acknowledged they preserved the cash register tapes, which Grissen stated he acquired on March 7.

Union Business Representative Cecil Casey stated that on March 8 Williams informed him that he had been suspended for sliding groceries. Upon asking Williams the details, Williams informed him that some lady, who denied knowing Williams, had come to his register, but stated he did not have any additional information.

Casey then filed a written grievance with Respondent over Williams' suspension.

B. *The Alleged Unlawful Refusal To Furnish Information*

The initial meeting on Williams' grievance was held on March 9 and attended by District Manager Haupt, Business Representative Casey, and Williams. Haupt informed them that Williams had been terminated. Casey testified that, upon asking Haupt the reason, Haupt replied that it was a security matter and Casey would have to talk to security and he could not explain any more about it than that. Casey also stated that, after Williams left the room, Haupt informed him there were two police officers waiting to arrest Williams when he left the store.[8] Upon asking Haupt if he knew anything that he did not know and whether there was any relationship between the girl and Williams, Haupt replied he did not know of anything and anything he wanted to know about for him to talk to security.

Haupt acknowledged informing Casey, who had asked for more details, that all he was authorized to tell him at the time was that Williams was terminated for violation

[6] The store involved here was closed in September.

[7] These three individuals are supervisors under the Act.

[8] Security Manager Grissen stated on March 8 Respondent presented its evidence of the incident to the prosecuting attorney, who had a warrant issued for Williams.

of company policy and that Casey would have to talk to Employee Relations Manager Mauldin for further information.

I credit Haupt rather than Casey whom I discredit for reasons discussed *infra.*

Employee Relations Manager Mauldin stated that around March 12 or a few days later Business Representative Casey called him and inquired about getting additional information on Williams' discharge and the events that happened whereupon he informed Casey that he had not been there at the time and Casey could get more information from Grissen. Mauldin informed Casey that he would ask Grissen to call and give Casey the details, which he then did.

Security Manager Grissen corroborated Mauldin's testimony about his asking him to talk to Casey about what had happened. Grissen testified he then had a telephone conversation with Casey who called and asked him what happened during which he outlined to Casey the evidence and what had occurred and what had been stated by everyone involved including the physical evidence and the discrepancy between the amount of the groceries and what had been rung up on the cash register and paid for.

While Casey did not specifically deny speaking with Grissen, he did deny having inquiries with Respondent's officials regarding Williams' grievance, except for those with Haupt and Mauldin and at the March 16 grievance meeting, discussed *infra.*

I credit the testimony of Grissen concerning this conversation with Casey. Apart from my observations of the witnesses in discrediting Casey, I do not find plausible his denial that he was furnished with the details of the incident especially when, by his own admission, he had requested such information for the purposes of processing the grievance which he did and had been told by Respondent who to contact for obtaining it.

According to Haupt, between the March 9 grievance meeting and the next grievance meeting held on March 16, another employee, who asked not to be identified, called and informed him Williams was acquainted with the customer who was either Williams' girl friend or former girl friend. However, Haupt stated that Respondent had previously had experience with the same employee and could not justify what he told them as being fact. Haupt gave the information to Security Manager Grissen but denied having any further contact concerning it or knowing whether it was ever followed up.

Security Manager Grissen corroborated Haupt's testimony about his relating the information to him and about the employee being an unreliable source of information because of previous information which the employee had given them that could not be verified. According to Grissen, he received this information subsequent to his conversation with Business Representative Casey and after meeting with this employee on March 17 he filed the information away and forgot about it until learning there would be an arbitration hearing at which time he reported it to Attorney Lincoln whose law firm represented Respondent in the arbitration proceeding. Grissen denied informing anyone else about this information.

The March 16 grievance meeting concerning Williams was attended by Employee Relations Manager Mauldin, Security Manager Grissen, District Manager Haupt, Business Representative Casey, Marvin Robertson, and Williams.

At the meeting, they discussed Williams' discharge and the reason therefor. Casey also testified that he asked them if they knew anything he did not know about the matter or knew of any relationship between the girl and Williams and was told "no." However, Grissen, whose testimony was corroborated by both Haupt and Mauldin, denied Casey requested any information at the meeting. According to Grissen, Haupt, and Mauldin, Williams told them what had happened and Grissen further stated that Williams said he had not finished the order and had a subtotal of $3.20 at the point Perry Black had instructed him to total the order out. Mauldin further stated that Casey had asked Williams if he knew the customer.

Grissen, Haupt, and Mauldin all denied that Casey or any one else from the Union had asked them for the customer's name and address; evidence about the child accompanying the customer referring to Williams by name; evidence that Williams had given separate versions of the incident to Respondent; evidence that the customer had made contradictory statements to Respondent concerning the incident; evidence of any tip about Williams and the customer being engaged; contents of a private investigator's report, including the name of a potential witness; and evidence that goods received by the customer did not appear on or correspond with the cash register tapes.

I credit the testimony of Grissen, Haupt, and Mauldin concerning what transpired at this meeting rather than Casey, whom I discredit for reasons previously given.

About the latter part of March, the Union requested arbitration of Williams' case.

Business Representative Casey stated that about a month or so after the March 16 grievance meeting he inquired of Employee Relations Manager Mauldin whether he knew of any additional information concerning Williams whereupon Mauldin informed him he did not. On the morning of July 11, which was the day before the arbitration hearing regarding Williams, Casey further testified that he called Mauldin and asked him if he knew any additional information concerning Williams and if he knew anything they did not know that would be helpful to them in making a decision because they really did not want to arbitrate unless they had to because of the expense involved in arbitration. Mauldin replied he would get in touch with Respondent's attorney, Lincoln, and call him back. A little later that same day, Mauldin called and informed him he did not have any additional information for him.

Mauldin, whose version I credit, acknowledged having two telephone conversations with Casey after the March 16 grievance meeting, during which Casey asked him if there were any additional information in regard to the case. Mauldin's recollection was that this occurred about a week before the arbitration hearing and on the date of the arbitration hearing. Mauldin at the hearing denied having any knowledge about the tip concerning the rela-

tionship between Williams and the customer or of any concrete evidence until the arbitration hearing, which he attended.

Attorney Lincoln, who was off work from about April 20 until the middle of June for medical reasons, testified that about the middle of March he engaged the services of a private investigative agency which conducted an investigation and subsequently submitted a written report[9] to determine whether there was a relationship between Williams and the customer. The initial information received, that Williams might be related to the child who was with the customer, proved false upon investigation. One of the private investigators did tell Lincoln, prior to April 20, the customer's mother had admitted Williams knew her daughter. However, according to Attorney Casey, the investigator had reported the customer's mother would not testify and the customer herself had dropped out of sight.[10]

About late June or early July, Lincoln stated he first learned of a witness named Deborah Anderson who was supposed to know something about Williams and the customer; however, Anderson could not be located until the night of July 11 whereupon he directed Respondent's representatives to bring her to the arbitration hearing the following day.[11] Lincoln testified that he first became aware of what Anderson could testify to during the arbitration hearing itself when his associate attorney, Thomas Staley, informed him what she had told him whereupon she was then called as a witness and testified.

Attorney Staley, who corroborated Lincoln's testimony, stated the first time he became aware he might have some relevant information concerning the relationship between Williams and the customer was approximately a week before the arbitration hearing when an investigator reported that two witnesses[12] could testify that Williams was engaged to the customer and that was what Deborah Anderson could testify to. Staley then unsuccessfully attempted to have Anderson served with a subpena. According to Staley, he did not talk with Anderson until after the arbitration hearing started and they only planned to use her as a rebuttal witness if Williams denied knowing the customer.

Attorney Youngdahl, who represented the Union in the arbitration proceeding involving Williams, testified that, about a week before the arbitration hearing held on July 12, he contacted Attorney Lincoln and informed him that he could not understand why the company was going to arbitration on it because it appeared to him they had an excellent case and in the past the Company would settle on cases as good as that and he wondered if they had anything that they did not know about that would make his evaluation wrong. When Lincoln indicated he did not know anything about the case at the time, he asked Lincoln when he got into it if he would give him a call if he found anything that they should know in evaluating going to arbitration. Youngdahl did not recall whether Lincoln agreed to do this but stated he did not disagree to it.

Youngdahl further testified that, the day before the arbitration hearing, he called Attorney Lincoln about changing the time of the arbitration hearing to 11 a.m. on July 12[13] because Williams had a criminal court trial earlier that same morning involving this same incident to which request Lincoln agreed. Youngdahl stated he asked Lincoln if he had a chance to get into the case and whether he could say anything about what was going on in view of his conclusion their case was very good and they did not want to arbitrate something if there was something going on they did not know about. Lincoln denied he knew of anything.

Under cross-examination Youngdahl acknowledged he did not ask Lincoln for information in a formal sense and was not certain whether his last conversation with Lincoln occurred on July 11. He claimed he made his request on that occasion for information by asking such questions as "Have you had a chance to get into the case now?" and "Tell me what is going on, why are you arbitrating it." Upon being asked at the hearing whether he really remembered having said this Youngdahl replied, "I remember that as well as anybody could remember something that happened that long ago."

Youngdahl further acknowledged he never asked Attorney Lincoln or anyone else from Respondent for the customer's name and address, evidence about the child with the customer referring to Williams by name, evidence that Williams had given Respondent separate versions of the incident, evidence that the customer made contradictory statements to Respondent concerning the incident, evidence about anonymous tips that Williams and the customer were engaged, evidence that the goods received by the customer did not correspond with the cash register tapes, or evidence about where the groceries and detailed cash register tapes were.

Attorney Lincoln testified that the only conversation he had with Youngdahl, except for an occasion when they struck the arbitrators' names, occurred on July 1 when Youngdahl called him and inquired whether there was any chance they could settle the case. Youngdahl mentioned he had not read or reviewed his file in a long time and wondered if there were any chance they could settle it because it appeared to be an open and shut case to him. He informed Youngdahl he knew of no possibility of settling although he had not looked at his file in some time. When Youngdahl suggested he might accept a suspension for Williams, he informed Youngdahl he had no authority to do so.[14] Under cross-examination Lincoln stated that, after Youngdahl had said it was an open and shut case as far as he was concerned, Youngdahl had also asked him why were they going to arbitrate it.

[9] Attorney Casey stated he received this report at least a month prior to the arbitration hearing.

[10] Neither the customer nor her mother testified at the arbitration hearing.

[11] District Manager Haupt and Security Manager Grissen corroborated Lincoln's testimony about arranging for Anderson to appear at the arbitration hearing.

[12] These witnesses were not identified.

[13] Attorney Lincoln denied Youngdahl called him about such arrangements.

[14] Under cross-examination Attorney Youngdahl acknowledged he had inquired about settling the case and also had indicated he might take a short supension for Williams.

The testimony of both Youngdahl and Lincoln establishes that Youngdahl made no requests for specific information but did inquire of Lincoln why Respondent was going to arbitrate Williams' case.[15]

The arbitration hearing was held on July 12. Prior to the hearing that same morning, Williams was tried in court on a criminal charge arising out of the same incident. The Union did not have a representative at that proceeding.

Business Representative Casey testified upon attending the arbitration hearing held on July 12 he had heard evidence for the first time about Williams and the customer being engaged at one time to be married and that Williams had eaten at a sandwich shop where the customer worked and had had lunch with her several times and knew her rather well.[16] According to Casey had he had knowledge of such evidence earlier, the Union would not have taken the case to arbitration.

Casey stated the only information he had heard prior to the arbitration hearing concerning the relationship between Williams and the customer was the statement made by the child with the customer about "Look, Mommie, there's Reggie." He learned of this at a grievance meeting, held on March 9 or 16, he believed, from District Manager Haupt. However, he discounted such statement because of Williams' outgoing personality. Casey also acknowledged the only investigation he conducted to determine whether Williams knew the customer was to talk to several employees at the store including Perry Black.

The arbitrator issued his opinion and award dated August 10 on Williams' grievance in which he denied the grievance.

The Union's expenses incurred in the arbitration proceeding were $350 for the services of Attorney Youngdahl who testified concerning that amount and $607.45 for the arbitrator's fees and expenses as reflected by a statement from the arbitrator dated August 10.

C. *Analysis and Conclusions*

The General Counsel contends, contrary to Respondent's denials, that Respondent violated Section 8(a)(5) and (1) of the Act by refusing to bargain collectively with the Union by failing and refusing to furnish the Union with certain information, previously described, it had requested and was entitled to and seeks as a remedy requiring Respondent to reimburse the Union for arbitrator and attorney fees incurred by it in the arbitration proceeding.

Section 8(a)(1) of the Act prohibits an employer from interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them in Section 7 of the Act. Section 8(a)(5) of the Act prohibits an employer from refusing to bargain collectively with the representative of its employees.

The law is well established that a union obligated to represent bargaining unit employees with respect to their terms and conditions of employment is entitled to such information from the employer as may be relevant and reasonably necessary to the proper execution of that obligation including administering a collective-bargaining agreement. *Westinghouse Electric Corporation*, 239 NLRB 106, 107 (1978). This includes furnishing relevant and reasonably necessary information regarding grievances in order for a union to make a determination on whether to proceed to arbitration. *Vertol Division, Boeing Company*, 182 NLRB 421 (1970).

The test for determining a union's need for such information is a showing of "probability that the desired information was relevant, and that it would be of use to the union in carrying out its statutory duties and responsibilities." *N.L.R.B.* v. *Acme Industrial Co.*, 385 U.S. 432, 437 (1967). However, such right to information is not without limitations. The Board in its decision in *Tool and Die Makers' Lodge No. 78 of District No. 10 of the International Association of Machinists and Aerospace Workers, AFL-CIO (Square D Company, Milwaukee Plant)*, 224 NLRB 111, 111-112 (1976), stated as follows:

> There is, nevertheless, no statutory obligation on the part of either to turn over to the other evidence of an undisclosed nature that the possessor of the information believes relevant and conclusive with respect to its rights in an arbitration proceeding. The contrary view, logically extended, would impose a statutory obligation on an employer or a union to examine, upon request, all evidence in its possession relating to a particular grievance and to turn over for the inspection of the other party the evidence deemed "relevant" to the grievance. We do not believe that discovery of this broad nature is necessary or desirable in unfair labor practice cases.

Further, the obligation to furnish information does not encompass furnishing witnesses' statements, *Anheuser-Busch, Inc.*, 237 NLRB 982 (1978).

The findings, *supra*, establish Williams was suspended on March 7, and on March 9 his suspension was converted into a discharge for sliding groceries to a customer. The Union filed a grievance over Wlliams' suspension resulting in grievance meetings being held on March 9 and 16 and culminating in an arbitration hearing held on July 12.

During this period, the Union made no requests upon Respondent for any of its specific information alleged. The only inquiries it made consisted of those by Business Representative Casey of Respondent's representatives, District Manager Haupt and Employee Relations Manager Mauldin, about the reasons for Williams' discharge and whether Mauldin knew of any additional information concerning Williams or knew anything they did not know, and by Attorney Youngdahl's inquiry of Attorney Lincoln about why Respondent was going to arbitrate Williams' case. Pursuant to such inquiries Respondent furnished Casey with the reasons for the actions taken

[15] While certain differences appear to exist between the testimony of Youngdahl and Lincoln, I do not find it necessary to resolve them.

[16] The only testimony received at the arbitration hearing to show a relationship between Williams and the customer was that of Deborah Anderson whose testimony reflects that 3 or 4 years ago she and the customer ate in a restaurant where Williams worked and while there the customer spoke to Williams, appeared to know him, introduced him to her, and also identified Williams' automobile to her. However the arbitrator, in his decision, excluded Anderson's testimony from consideration.

against Williams and Security Manager Grissen informed Casey of the details of its investigation which resulted in such action. The only information not furnished consisted of information received after Williams' discharge concerning an alleged relationship between Williams and the customer. However, this unconfirmed information was obtained in part from an unreliable source, some of it proved false, and the only witness who testified about it at the arbitration hearing could not be located and interviewed by Respondent's attorney to determine specifically what she could testify to until the arbitration hearing itself and even then her testimony was excluded by the arbitrator and not considered by him in rendering his decision.

The foregoing evidence establishes and I find that the Union made no requests of Respondent to produce the specific information alleged here but couched its inquiries for information only in general terms and in a manner insufficient to apprise Respondent of the information it sought. However, even assuming such inquiries could be construed as being sufficient to constitute an appropriate request, I find the evidence is insufficient to establish that Respondent unlawfully failed or refused to furnish such information. The Union had already been supplied by Respondent with the reasons for and the details of Williams' suspension and discharge. The only remaining information in Respondent's possession prior to the arbitration hearing, and not known or relied on in suspending and discharging Williams, pertained to an alleged relationship between Williams and the customer. Such evidence was both questionable and unconfirmed and cannot be equated to the type of relevant and reasonably necessary information contemplated to be furnished to a party under the Act. Further, to impose upon Respondent the legal obligation to disclose and furnish this type of questionable and unconfirmed information to the Union would in effect constitute that type discovery which the Board has indicated unnecessary and undesirable in unfair labor practice cases.

Accordingly, and for those reasons discussed, I find that Respondent did not violate Section 8(a)(5) and (1) of the Act as alleged by failing or refusing to furnish certain information to the Union.

CONCLUSIONS OF LAW

1. Safeway Stores, Inc., is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. Retail Clerks Union, Local 1583, affiliated with United Food and Commercial Workers, AFL-CIO, is a labor organization within the meaning of Section 2(5) of the Act.

3. Respondent did not violate Section 8(a)(5) and (1) of the Act as alleged in the amended complaint.

Upon the foregoing findings of fact, conclusions of law, and the entire record, and pursuant to Section 10(c) of the Act, I hereby issue the following recommended:

ORDER[17]

It is hereby ordered that the amended complaint be, and hereby is, dismissed in its entirety.

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[17] In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided by Sec. 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order and all objections thereto shall be deemed waived for all purposes.